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Message Text

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FM SECSTATE WASHDC
TO ALL DIPLOMATIC POSTS
CINCLANT FOR POLAD
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AMEMBASSY SUVA BY POUCH
USINT BAGHDAD BY POUCH
AMEMBASSY ATHENS BY POUCH
AMEMBASSY ANKARA BY POUCH
AMEMBASSY NICOSIA BY POUCH
USINT ALGIERS BY POUCH
XMT AMEMBASSY CARACAS

C O N F I D E N T I A L STATE 178492

DAKAR PASS BANJUL

FOL SENT ACTION SECSTATE INFO USUN NEW YORK AUGUST 13
REPEATED TO YOU QUOTE

C O N F I D E N T I A L CARACAS 7732

DEPARTMENT PLEASE PASS ALL DIPLOMATIC POSTS EXCEPT CARACAS

FROM USDEL LOS
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EO 11652: GDS
TAGS: PLOS
SUBJECT: LOS - WEEKLY ANALYTICAL SUMMARY, AUGUST 5-9

1. SUMMARY. REACTION TO U.S. ECONOMIC ZONE AND CONTINENTAL SHELF

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ARTICLES IS PROMISING. STRONG U.S. STATEMENT ON CONDITIONS FOR DEEP SEABED EXPLOITATION IS GIVING LDCS PAUSE AND MAY PRODUCE DETAILED LDC COUNTER-DRAFT. SCIENTIFIC RESEARCH NEGOTIATION IS BEGINNING TO MOVE FORWARD IN COMMITTEE III. END SUMMARY.

2. A. COMMITTEE I - DISCUSSIONS IN C-1 HAVE LARGELY CENTERED ON MOST CRITICAL ISSUES UNDER COMMITTEE'S MANDATE-EXPLOITATION SYSTEM, CONDITIONS
OF EXPLOITATION AND ECONOMIC ASPECTS OF EXPLOITATION. THERE HAS BEEN LESS RHETORIC AND FEWER PROCEDURAL DEBATES THAT PREVIOUSLY EXPERIENCED
IN SEABED COMMITTEE, AND WITH FEW EXCEPTIONS, QUALITY OF DISCUSSION IS
RAPIDLY APPROACHING THAT OF GENUINE NEGOTIATION.

B. DURING COURSE OF SESSION, GROUP OF 77 HAS BEEN ABLE TO OVERCOME OBSTRUCTIONIST TACTICS OF PERU AND OTHERS AND TO PRESENT FULLY ENDORSED
GROUP OF 77 TEXT ON SYSTEM OF EXPLOITATION WHICH, ALTHOUGH ENTIRELY UNACCEPTABLE TO U.S., EMBODIES GREAT FLEXIBILITY WITH RESPECT TO TYPE S
OF LEGAL RELATIONSHIPS FOR SEABED EXPLOITATION THAT CAN BE ENTERED IN TO
BY AUTHORITY. ON QUESTIONS OF CONDITIONS FOR EXPLOITATION AND ECONOMIC
IMPLICATIONS LDC SOLIDARITY HAD BEEN WEAKENED. LDCS IN C-1 HAVE INDI-CATED STRONG DESIRE TO CONSIDER SERIOUS NEGOTIATION OF ARTICLE 9, " WHO
MAY EXPLOIT THE AREA," IN HPES OF ARRIVING AT CONSENSUS TEXT BY END OF
CARACAS SESSION, ALTHOUGH THERE IS SOME LDC SENTIMENT TO ENGAGE IN MO CH
NEGOTIATION AND PUT ARTICLE 9 TO A VOTE.

C. CONSULTATIONS WITH GROUP OF 5 ON SEABEDS ISSUES HAVE BEEN SLIGHTLY CONFIDENTIAL

STRAINED THIS SESSION, PRIMARILY BECAUSE OTHER MEMBERS OF GROUP APPEAR
TO HAVE MORE FLEXIBILITY ON SOME ISSUES OF CRUCIAL IMPORTANCE (SUCH AS
QUOTA SYSTEM, AND POSSIBLY ECONOMIC IMPLICATIONS) BUT ARE GENERALLY MORE RELUCTANT TO ENGAGE IN CONCEPTUAL OR COSMETIC COMPRIMES THAN U.S. (OUR OVERALL TACTIC THIS SUMMER HAS BEEN TO DOWNPLAY TERMINOLOGY ,
WHILE STRESSING NECESSITY FOR SPELLIN OUT HOW SYSTEM WOULD WORK THROUGH
REGULATION). ONE POSSIBLE EXPLANATION FOR THIS DIVERGENCE IN POSITIONS
MAY BE THAT OTHER MEMBERS ARE CONTEMPLATING FINAL ACCEPTANCE OF DUAL SYSTEM THAT WOULD INCLUDE LICENSING IN PARALLEL WITH DIRECT EXPLOITATION

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RATHER THAN UNITARY SYSTEM. (USSR CONDITIONALLY ACCEPTED THIS APPROACH
IN 1973, ALTHOUGH WE HAVE NO SUBSTANTIATION THAT OTHERS INTEND TO DO SO.)

D. PRINCIPAL IMPEDIMENT TO GENUINE PROGRESS APPEARS TO BE UNWILLINGNESS
OF LDC DELS TO SERIOUSLY CONSIDER RULES AND REGULATIONS UNTIL CONCEPTUAL
QUESTION OF AUTHORITY'S CONTROL OVER SEABED EXPLOITATION IS RESOLVED.
U.S. ON OTHER HAD HAS INDICATED NO WILLINGNESS TO NEGOTIATE EXPLOITATION
SYSTEM WITHOUT GUARANTEE THAT THERE WILL BE SATISFACTORY REGULATORY PRO-
VISIONS IN TREATY. EVIDENCE OF THIS IMPASSE CAN BE SEEN IN LDC DELS
REFUSAL TO ALLOW JAMAICAN PROPOSAL ON ARTICLE 9 WHICH EMPHASIZED REGU LA-
TORY PROVISIONS TO APPEAR AS FOOTNOTE TO GROUP OF 77 ALTERNATIVE
FOR THAT ARTICLE. ALTHOUGH U.S. CANNOT ACCEPT FORMULA FOR EXPLOITATIONS
SYSTEM WHICH IS NOT EXPRESSLY CONDITIONED ON REGULATIONS TO BE DEVELO PED
BY CONFERENCE, IT MAY BE POSSIBLE TO INITIATE NEGOTIATIONS ON ARTICLE 9
IN CONJUNCTION WITH NEGOTIATIONS ON PROVISIONS FOR REGULATIONS. TO
ACHIEVE THIS SOLUTION, HOWEVER, WE WILL HAVE TO OBTAIN LDC COMMITMENT
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TO
INCLUSION OF SOME REGULATIONS IN TREATY AND ESTABLISHMENT OF A WORKING
GROUP MANDATED TO DRAFT TREATY ARTICLES ON BASIC CONDITIONS OF EXPLOI -
TATION.

E. C-1 HAS DEVOTED CONSIDERABLE TIME TO BOTH FORMAL AND INFORMAL DEBATE
ON SUBJECT OF ECONOMIC EFFECTS OF SEABED PRODUCTION ON LDC LAND-BASED
PRODUCERS. IN COURSE OF THESE DISCUSSIONS LDC CONSUMER INTERESTS HAVE
BEEN JUXTAPOSED AGAINST PRODUCER INTERESTS IN CONTROLS OVER SEABED
DEVELOPMENT BY SEVERAL LDC REPS. IN ADDITION, CLEAR CONSENSUS HAS
EMERGED THAT PRESENT DATA REGARDING PROBABLE
EFFECTS IS UNRELIABLE. WRAP-UP DEBATE INCLUDED SEVERAL STATEMENTS BY
PREVIOUSLY HARD-LIN LDC REPS WHICH IMPLY SOME SOFTENING IN POSITIONS
MAY EVENTUALLY EMERGE.

3. COMMITTEE II - A. ECONOMIC ZONE - WITH DEBATE FOCUSED ON ECONOMIC ZONE,
PRINCIPAL GENERAL PROBLEMS ARE:

(1) COASTAL STATE JURISDICTION OVER NON-RESOURCE ACTIVITIES
(E.G., POLLUTION, SCIENTIFIC RESEARCH, ETC.)

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(2) FULL UTILIZATION OF FISH STOCKS, AND RELATED QUESTION OF
ACCESS BY OTHER STATES, INCLUDING LEANDLOCKED STATES.

(3) JURISDICTION OVER CONTINENTAL MARGIN BEYOND 200 MILES, AND
RELATED QUESTION OF REVENUE-SHARING.
THESE PROBLEMS ARE REASON FOR HIGHLY THEORETICAL LDC DISCUSSIONS OF
"ESSENTIAL CHARACTER" OF ECONOMIC ZONE, WITH CANADA STRONGLY PRESSING
THE LINE THAT THE ECONOMIC ZONE IS NOT MERELY A RESOURCE ZONE BUT A
ZONE OF COASTAL STATE MANAGMENT. THUS, THE WIDESPREAD SUPPORT FOR A
12-MILE TERRITORIAL AREA AND A 200-MILE ECONOMIC ZONE AS PART OF AN
OVERALL LOS PACKAGE IS NOT READILY TRANSLATABLE INTO SPECIFICS. NEW
U.S. ARTICLES ON ECONOMIC ZONE (TRANSMITTED SEPARTELY) HAVE
HOWEVER BEEN WELL RECEIVED, AND UPCOMING MEETINGS WITH
COASTAL STATE GROUP AND WITH AFRICANS ON ARTICLES MAY BE PRODUCTIVE.

B. STRAITS - U.S. STRONG NEGATIVE REACTION TO WARSHIP-COMMERCIAL
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VESSEL
DISTINCTION IS NOW SIDELY KNOWN, AND SEEMS TO BE HAVING DAMPENING
EFFECT
ON THAT IDEA. PRIVATE CONCERSATIONS CONTINUE TO CONFIRM THAT TREND
CONTINUES IN OUR DIRECTION.

C. ARCHIPELAGOS- EXTREME TURKISH REACTION TO CANADIAN, INDIAN, ETC.
PAPER ADVOCATING ARCHIPELAGO TREATMENT FOR ISLANDS OF CONTINENTAL
STATES
SEEMS TO HAVE GIVEN INDONESIA AND OTHERS PAUSE, AS IT APPEARS TURKEY
HAS
CLEAR ARAB SUPPORT. COUPLED WITH REPORTS THAT LDCS ARE GETTING A BIT
TIRED OF CANADIAN HARPING ON POLLUTION JURISDICTION, IT MAY BE THAT
THEY
ARE OVERPLAYING THEIR HAND.

4. COMMITTEE III (POLLUTION)- A. LACK OF MOVEMENT ON POLLUTION ISSUES
SEEMS DUE ONELY STATED INTENTION OF LEAST SOME DEVELOPING COUNTIRES
NOT TO MOVE FASTER ON THESE ISSUES THAT ON NEGOTIATION ON ECONOMIC ZO
NE
IN COMMITTEE II. LAST WEEK HAS PRODUCED SOME MOVEMENT, PERHAPS DUE TO
FORMAL SUBMISSION OF PAPER BY SEVERAL COASTAL STATES SETTING OUT OUT
THE
ECONOMIC ZONE APPROACH TO POLLUTION CONTROL, I.E., ESSENTIALLY COMPLE
TE
COASTAL STATE JURISDICTION OVER ALL SOURCES FOR BOTH STANDARD-SETTING
AND ENFORCEMENT. CHAIRMAN VALLARTA AHS MADE STRONG EFFORT TO GET MOVE
-
MENT EITHER IN INFORMAL SESSIONS OR IN ASMALL NEGOTIATING GROUP
BUT HAS BEEN LARGELY FRUSTRATED IN HIS EFFORTS BY PROCEDURAL WRANGLIN
G.
NORWAY HAS RECENTLY ESTABLISHED A SMALL PRIVATE NEGOTIATING GROUP
(INCLUDING U.S.) ALONG LINES OF EVENSEN GROUP ON RESOURCES TO ATTEMPT

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TO DEAL WITH CONTROVERSIAL MARINE POLLUTION ISSUES RELATING TO VESSEL
S.
EARLY MEETINGS OF GROUP ON DUMPING QUESTIONS SHOW SOME PROMISE FOR
PROGRESS.

B. SUBSTANTIVELY, MAIN ISSUES OF DISCUSSION AND CONTENTION TO DATE
HAVE DEALT WITH DEVELOPING COUNTRY DISIRE TO HAVE DOUBLE STANDARD REG
ARD-
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ING BOTH ESTABLISHMENT AND APPLICATION OF POLLUTION CONTROL STANDARDS
.
INDIA, KENYA AND BRAZIL HAVE BEEN MOST VOCAL ON THIS ISSUE. BASIC
THRUST
OF APPROACH HAS BEEN TO INCLUDE LANGUAGE ALLOWING STATES TO TAKE
THEIR
NATIONAL ENVIRONMENTAL AND ECONOMIC DEVELOPMENT POLICIES INTO ACCOUNT
WHEN CARRYING OUT THEIR INTERNATIONAL POLLUTION CONTROL OBLIGATIONS.
U.S. AND MOST DEVELOPED COUNTRIES HAVE STRONGLY OPPOSED THIS MOVE BUT
HAVE BEEN SOMEWHAT UNDERCUT BY CANADIAN ACCEPTANCE OF DEVELOP-
ING COUNTRY APPROACH. THERE WAS SOME PROGRESS ON QUESTION OF
VESSEL CONSTRUCTION STANDARDS AS MANY DEVELOPING COUNTRIES
NOW WILLING TO HAVE SUCH STANDARDS SET THROUGH AN INTERNATIONAL
PROCESS,
PROBABLY THOUGH IMCO, RATHER THAN BY COASTAL STATES. MEXICAN REP HAS
TOLD US LATIN AMERICAN GROUP HAS TAKEN FAVORABLE DECISION ON THIS
POINT.
HOWEVER, DEVELOPING COUNTRIES CONTINUE TO ARGUE FOR COASTAL STATED
RIGHTS
TO SET DISCHARGE STANDARDS AND TO ENFORCE ALL STANDARDS IN ENTIRE
ECO-
NOMIC ZONE. POLSITIONS ON THESE ISSUES SHOULD BECOME MORE CLEAR WHEN
THEY ARE REACHED IN THE AGENDA FOR DEBATE IN INFORMAL SESSIONS.

C. U.S. HAS CONTINUED TO COORDINATE WITH GROUP OF FIVE (U.S. USSR,
U.K.,
FRANCE AND JAPAN) AND GROUP OF 17 (ABOVE PLUS SWEDEN, NORWAY, DENMARK
,
BELGIUM, NETHERLANDS, FRG, ITALY, GREECE, FINALND, GDR, BULGARIA, AND
POLAND) ALTHOUGH THERE ARE GROWING DIFFERENCES WITHIN THE GROUP ON
TACTICES AND SUBSTANCE OF DEALING WITH DEVELOPING COASTAL STATE POSIT
IONS
ON VESSEL-SOURCE POLLUTION. SEVERAL WANT TO MAKE LIMITED PROPOSALS
DESIGNED TO HELP SATISFY DEVELOPING COUNTRIES. DENMARK, FOR EXAMPLE,
HAS MADE PUBLIC PROPOSAL ALLOWING CERTAIN COASTAL STATE ENFORCEMENT
RIGHTS BEYOND TERRITORIAL SEA. FRG AND GREECE HAVE PUBLICLY PRO-
POSED HIGH SEAS INSPECTION RIGHTS. USSR HAS PROPOSED RIGHTS TO SET
STANDARDS AND TAKE ENFORCEMENT ACTION AGAINST DUMPING IN AN UN-
SPECIFIED
ZONE OFF THE COAST. U.S. IS IN PROCESS OF TRYING TO GET AN AGREED SET
OF ARTICLES WITH GROUP OF 17 OR AL LEAST WITH A LARGE NUMBER OF ITS
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MEMBERS WHICH CAN BE PROPOSED TO CONFERENCE AS COUNTER TO COASTAL STATE
ARTICLES. WIDE SPECTRUM OF DIFFERENT APPROACHES MAKES THIS DIFFICULT, HOWEVER, AND PERHAPS IMPOSSIBLE.

D.U.S. BILATERAL EXPLORATORY DISCUSSIONS WITH CANADA, THE LEADER OF THE COASTAL STATE GROUP, HAVE REVEALED A PRIMARY INTEREST IN PROTECTING
THE ARCTIC THROUGH AN APPROACH COMBINING COASTAL STATE RIGHTS TO SET DISCHARGE STANDARDS AND TO ENFORCE ALL STANDARDS (PERHAPS WITH STRICT LIMITATIONS REGARDING ENFORCEMENT OF CONSTRUCTION STANDARDS) AND COASTAL
STATE STANDARDS SETTING FOR CONSTRUCTION AND DESIGN IN VULNERABLE AREAS
WITH AN INTERNATIONAL REVIEW PROCESS. THESE DISCUSSIONS ARE CONTINUING
AS WE ATTEMPT TO ASCERTAIN DETAILS ON CANADIAN POSITION AND POSSIBLE AREAS OF FLEXIBILITY.

5. COMMITTEE III (SCIENTIFIC RESEARCH) - A. MOVEMENTHEAS FINALLY BEGUN.
LAST WEEK SAW SECRETARIAT PRESENT TECHNOLOGY REPORT AND NIGERIA INTRO-
DUCE ARTICLES ON TRANSFER OF TECHNOLOGY. ALTHOUGH NAIVE AND UNACCEPTABLE
TO U.S. NIGERIA ARTICLES WERE FIRST ON SUBJEC AND MAY SERVE TO RELIEVE
COMMITTEE III CHAIRMAN YANKOV'S NEED TO MAKE CONTINUOUS REFERENCE TO LACK OF PROGRESS ON TECHNOLOGY TRANSFER, THUS PERMITTING INFORMAL WORKING
GROUP TO CONTINUE TO NARROW DIFFERENCES ON SCIENTIFIC RESEARCH ARTICLES.

B. WORKING GROUP UNDER CHAIRMAN METTERNICH MADE SUBSTANTIAL PROGRESS.
FORMULATION OF GENERAL PRINCIPLES BY METTERNICK WAS MOST HELPFUL SINCE
IT PROVIDED FIRST OPPORTUNITY FOR WORKING GROUP TO REACH AGREEMENT.
METTERNICK ALSO DRAFTED FOUR "TRENDS" WHICH WILL BE BASIS FOR DISCUSS-
ION DURING REMAINING SESSIONS AND WHICH, IT ACCEPTED, WILL BE ADVANTAGEOUS TO U.S. TRENDS REPRESENT 1) CONSENT ARTICLES SUBMITTED BY CONFIDENTIAL

KENYA AND 17 OTHER STATES; 2) QUALIFIED CONSENT ARTICLES OF MEXICO AND
IRELAND; 3) U.S. ARTICLES; AND 4) SOVIET ARTICLES. MOREOVER, SINCE DEVELOPING COUNTRIES THIS WEEK INDICATED PRIVATELY TO METTERNICK THEIR
BELIEF THAT THE MEXICAN-IRISH PROPOSAL MIGHT WELL PROTECT THERE

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INTEREST
AND SERVE AS A USEFUL BASIS FOR DISCUSSION, THERE IS A SLIGHT
POSSIBILITY
THAT TREND 1) MAY BE ELIMINATED BY END OF CARACAS SESSION.

C. INFORMAL DRAFTING GROUP CONSISTING OF AUSTRIA, DENAMRK, SWEDEN, SWITZERLAND, FRG, U.K., FRANCE, POLAND, USSR, SINGAPORE, ITALY,THAI-LAND,
JAPAN AND NETHERLANDS-- WITH U.S. AS "OBSERVER--- CONTINUES TO MEET DAILY AND TO DRAFT ARTICLES WHICH INCORPORATE U.S. POSITION. GROUP WORKING HARD TO BROADEN ITS MEMBERSHIP TO INCLUDE MORE LDCS.
STEVENSON UNQUOTE KISSINGER

NOTE BY OC/T: POUCHED ABOVE ADDRESSEES.

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